

COL. E. H. TARBUTTON

DECEMBER 3 (legislative day, NOVEMBER 18), 1943.—Ordered to be printed

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 255]

The Committee on Claims, to whom was referred the bill (H. R. 255) for the relief of Col. E. H. Tarbutton, having considered the same, report favorably thereon and recommend that the bill do pass without amendment.

The facts will be found fully set forth in House Report No. 412, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 412, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 255) for the relief of Col. E. H. Tarbutton, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 11, after the word "by", insert the language "Charles G. Beiler,".

Page 2, line 4, after the words "New York", insert a comma and add the language: "and that neither Colonel E. H. Tarbutton nor any other person, except the estate of the deceased civilian employee, shall hereafter be held accountable or responsible for the loss of the funds so embezzled or misappropriated."

The purpose of the proposed legislation is to pay to Col. E. H. Tarbutton, Quartermaster Corps, United States Army, \$3,287.67, or so much of such sum as shall have been collected from him prior to the passage of this act, in full satisfaction of his claim against the United States as a result of the loss of public funds due to financial irregularities and frauds against the Government in the handling of public funds by Charles G. Beiler, a civilian employee of the Quartermaster Corps at Fort Jay, N. Y., during the period from March 17, 1927, to May 6, 1928, while Colonel Tarbutton was on duty as post quartermaster at Fort Jay and Governors Island, N. Y., and to provide that neither Colonel Tarbutton nor any other person, except the estate of the deceased civilian employee, shall after the passage of this act be held accountable or responsible for the loss of the funds so embezzled or misappropriated.

STATEMENT OF FACTS

Colonel Tarbutton, then lieutenant colonel, assumed the duties of post quartermaster at Fort Jay on March 23, 1927; was detailed as salvage officer on May 20, 1927; and was relieved as quartermaster and salvage officer on May 7, 1928.

During the period July 1, 1925, to February 28, 1931, Charles G. Beiler, now deceased, a civilian employee on duty in the office of the quartermaster, Fort Jay, N. Y., was entrusted with the handling of certain fiscal matters pertaining to the quartermaster's office, including the collection and disposition of receipts from sales of gasoline, oil, electric current, coal, water, forage, packing and crating, laundry service, rentals, and salvage. During this period Mr. Beiler received numerous collections in cash and in checks derived from the sale of Government supplies and services, of which \$22,269.97 was not deposited with the agent finance officer, but was appropriated by Mr. Beiler for his own use. Mr. Beiler died on March 1, 1931.

The War Department submits that the loss was made possible because of the carelessness of the officers immediately responsible, and by the practice of agent finance officers of cashing for Mr. Beiler, in violation of existing regulations and statutes, of checks made payable to the quartermaster or Chief of Finance.

Mr. Beiler acted as assistant to the quartermaster officers concerned, collecting funds for other activities and for salvage sales, and did all the general office work connected therewith. In some instances he prepared the forms for depositing funds and the quartermaster endorsed the forms and accompanying checks with open endorsements. Many of the deposit forms were never taken to the finance officer for deposit of funds. Most of the checks endorsed improperly were cashed by Mr. Beiler and the proceeds thereof were misappropriated by him. The quartermaster failed to check Mr. Beiler by inspecting the deposit forms to see whether they had been signed by the finance officer.

No person other than Mr. Beiler profited as a result of the embezzlement.

After investigation, the War Department determined the following officers were responsible and pecuniarily liable to the United States for the following amounts embezzled by Mr. Beiler:

Col. W. H. Noble, Quartermaster Corps (now retired)-----	¹ \$10, 100. 70
Lt. Col. E. H. Tarbutton, Quartermaster Corps (now colonel, U. S. Army, retired)-----	² 3, 287. 67
Capt. John Schocklin, Quartermaster Corps (now deceased)-----	³ 2, 796. 60
Capt. James T. MacDonald, Quartermaster Corps (now lieutenant colonel, U. S. Army, retired)-----	⁴ 90
Capt. J. R. Holt, Quartermaster Corps (now lieutenant colonel)---	⁵ 1, 507. 26
Capt. B. B. Barbee, Finance Department (now deceased)-----	⁶ 1, 588. 65
First Lt. Joseph F. Routhier, Finance Department (now deceased)-	⁷ 2, 092. 85
Recovered from Mr. Beiler's estate-----	682. 22
Recovered from post exchange officer, Fort Jay-----	213. 12
Total-----	22, 269. 97

¹ Relieved by Private Law No. 662, 75th Cong., approved June 22, 1938.

² Beneficiary of proposed legislation (H. R. 7169).

³ Amount paid by bonding company.

⁴ Paid by Lieutenant Colonel MacDonald.

⁵ Relieved by Private Law No. 12, 76th Cong., approved Apr. 10, 1939.

⁶ Relieved by Private Law No. 663, 75th Cong., approved June 22, 1938.

⁷ Paid by Lieutenant Routhier.

Private laws were passed by Congress (see report of War Department for citations) relieving Colonel Noble, Captain Holt, and Captain Barbee of accountability for their portions of the loss. The amount for which Captain Schocklin was held responsible was paid by the bonding company. Colonel McDonald and Lieutenant Routhier paid the amounts charged against them. The beneficiary of the proposed legislation, Colonel Tarbutton, is the only remaining officer whose obligation has not been disposed of, either by payment or by relief by private legislation.

The War Department concluded that there was no available action to it other than to make stoppages against the officers in charge of the particular activities concerned, but states in its report that—

"It seems unfortunate, however, that officers who in no way profited by the irregularities which caused the loss to the Government must personally reimburse the United States for the amounts embezzled by a clever thief. This is particularly true when the amounts to be refunded are great, and constitute excessive penalties for acts of negligence or omissions resulting at least in part from the manifold character and extent of the duties that such officers were required to discharge.

"In view of the fact that the Congress has deemed it proper to grant relief in the cases of Colonel Noble, Lieutenant Colonel Holt, and Captain Barbee, as mentioned above, and since of the several officers who were held accountable as

a result of the irregularities in question, Lieutenant Colonel Tarbutton is the only one remaining who has not now been cleared in one manner or another, the Department will interpose no objection to the enactment of H. R. 7169 as an act of grace."

The report of the War Department was made as of July 13, 1942, at which time Colonel Tarbutton had paid \$1,460 of the original indebtedness of \$3,287.67.

Attention is called to the affidavit of Colonel Tarbutton, which is made a part of this report, in which he sets forth that he was given no cause to suspect Mr. Beiler of any dishonesty; that he continued to entrust to Mr. Beiler the same duties as entrusted to him by preceding officers in charge; that, although he did not have sufficient personnel to assist him, his request for additional personnel was denied, and that all due precautions to the best of his ability were exercised to protect the interests of the Government.

Your committee feel that the relief provided for in the bill should be granted, and, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department favoring the proposed legislation, together with other pertinent evidence, all of which is made a part of this report.

WAR DEPARTMENT,
Washington, July 13, 1942.

HON. DAN R. MCGEEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

DEAR MR. MCGEEHEE: The War Department will interpose no objection to the enactment of H. R. 7169, Seventy-seventh Congress, second session, which would pay to Col. E. H. Tarbutton, Quartermaster Corps, United States Army (now retired), the sum of \$3,287.67, or so much of such sum as shall have been collected from him prior to the enactment of this proposed legislation, in full settlement of his claim against the United States as a result of the loss of public funds due to financial irregularities and frauds against the Government in the handling of public funds by a civilian employee of the Quartermaster Corps at Fort Jay, N. Y., during the period from March 17, 1927, to May 6, 1928, while Colonel Tarbutton was on duty as post quartermaster at Fort Jay and Governors Island, N. Y.

Colonel Tarbutton (then lieutenant colonel) assumed the duties of post quartermaster at Fort Jay on March 23, 1927; was detailed as salvage officer on May 20, 1927; and was relieved as quartermaster and salvage officer on May 7, 1928. During the period July 1, 1925, to February 28, 1931, Charles G. Beiler (now deceased), a civilian employee on duty in the office of the quartermaster, Fort Jay, N. Y., was entrusted with the handling of certain fiscal matters pertaining to the quartermaster's office, including the collection and disposition of receipts from sales of gasoline, oil, electric current, coal, water, forage, packing and crating, laundry service, rentals, and salvage. During this period Mr. Beiler received numerous collections in cash and in checks derived from the sale of Government supplies and services, of which \$22,269.97 was not deposited with the agent finance officer but was appropriated by Mr. Beiler for his own use. Mr. Beiler died on March 1, 1931.

An investigation disclosed that the loss was made possible (1) by carelessness on the part of those officers immediately responsible for the various quartermaster activities at Fort Jay in conducting such activities; by their failure to maintain personal supervision over funds for which they were responsible; by their failure to maintain a system of bookkeeping or accounting which would show an accurate chronological record of sales and collections; and their failure to make certain that public moneys derived from activities under their immediate cognizance and jurisdiction and coming under their control were deposited with the finance officer to the credit of the proper appropriation or fund; and (2) by the practice of agent finance officers or their bonded cashier and the post exchange officer of cashing for Mr. Beiler, in violation of existing regulations and statutes, checks made payable to the quartermaster or the Chief of Finance. Some of these checks bore genuine but erroneous endorsements of the quartermaster officers concerned, some bore forged endorsements, and some were cashed without endorsement.

Mr. Beiler acted as assistant to the quartermaster officers concerned, collecting funds for other activities and for salvage sales, and did all the general office work connected therewith. In some instances he prepared the forms for depositing funds and the quartermaster endorsed the forms and accompanying checks with open endorsements. It is of record that endorsements on checks were not prepared in accordance with Army regulations. Many of the deposit forms were

never taken to the finance officer for deposit of funds. Most of the checks endorsed improperly were cashed by Mr. Beiler and the proceeds thereof were misappropriated by him. The quartermaster failed to check Mr. Beiler by inspecting the deposit forms to see whether they had been signed by the finance officer. No person other than Mr. Beiler profited as a result of the embezzlement.

After due and careful consideration of all evidence in the case, the War Department determined that the following officers were responsible and pecuniarily liable to the United States for the following amounts embezzled by Mr. Beiler:

Col. W. H. Noble, Quartermaster Corps (now retired)-----	¹ \$10, 100. 70
Lt. Col. E. H. Tarbutton, Quartermaster Corps (now colonel, U. S. Army, retired)-----	² 3, 287. 67
Capt. John Schocklin, Quartermaster Corps (now deceased)-----	³ 2, 796. 60
Capt. James T. MacDonald, Quartermaster Corps (now lieutenant colonel, U. S. Army, retired)-----	⁴ 90
Capt. J. R. Holt, Quartermaster Corps (now lieutenant colonel)---	⁵ 1, 507. 26
Capt. B. B. Barbee, Finance Department (now deceased)-----	⁶ 1, 588. 65
First Lt. Joseph F. Routhier, Finance Department (now deceased)---	⁷ 2, 920. 85
Recovered from Mr. Beiler's estate-----	682. 22
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⁵ Relieved by Private Law No. 12, 76th Cong., approved Apr. 10, 1939.

⁶ Relieved by Private Law No. 663, 75th Cong., approved June 22, 1938.

⁷ Paid by Lieutenant Routhier.

This case received exhaustive study and investigation by the War Department and in view of all the circumstances it was concluded that there was no appropriate action available to the Department other than to make stoppages against the commissioned officers in charge of the particular activities concerned. The various violations of statutes and regulations and the failure to exercise prudence, caution, or attention on the part of each of the officers who were found liable are considered serious and contributing factors in the loss suffered by the Government, and in all such cases the War Department strictly adheres to the policy that each officer should be held strictly responsible for that part of the loss to which his actions and failures contributed.

It seems unfortunate, however, that officers who in no way profited by the irregularities which caused the loss to the Government must personally reimburse the United States for the amounts embezzled by a clever thief. This is particularly true when the amounts to be refunded are great, and constitute excessive penalties for acts of negligence or omissions resulting at least in part from the manifold character and extent of the duties that such officers were required to discharge.

In view of the fact that the Congress has deemed it proper to grant relief in the cases of Colonel Noble, Lieutenant Colonel Holt, and Captain Barbee, as mentioned above, and since of the several officers who were held accountable as a result of the irregularities in question, Lieutenant Colonel Tarbutton is the only one remaining who has not now been cleared in one manner or another, the Department will interpose no objection to the enactment of H. R. 7169 as an act of grace. Of the amount of Lieutenant Colonel Tarbutton's original indebtedness to the United States, \$3,287.67, he has repaid, to and including May 31, 1942, the sum of \$1,460, which amount, plus any further amounts paid by him prior to the enactment of the proposed legislation, would be refunded to him under the provisions of this legislation.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

STATE OF TEXAS,
County of Bexar, ss:

Before me, the undersigned authority, on this day personally appeared Col. E. H. Tarbutton, United States Army, retired, to me known to be the person whose name is subscribed below, and who, after being by me first duly sworn, according to law, did depose and say:

That his name is E. H. Tarbutton, and that he is a colonel of the United States Army on the retired list. That while affiant was on active duty, and then a lieutenant colonel, Quartermaster Corps, he was quartermaster at Fort Jay, N. Y., and also for headquarters, Second Corps Area, Governors Island, N. Y., from about March 17, 1927, to May 6, 1928.

That under affiant, as clerk in the quartermaster office, one Mr. Charles G. Beiler, now deceased, in addition to other work, handled papers in connection with salvage activities. That Mr. Beiler had been a civilian employee of the Government for many years prior to the time this affiant assumed the duties of quartermaster, as aforesaid, on March 17, 1927, at Fort Jay, N. Y. That on assuming the duties in the quartermaster office, Fort Jay, N. Y., there was nothing in Mr. Beiler's past record to arouse any suspicion as to his honesty. That from his dress, habits, etc., so far as the affiant was able to determine, he lived within his Government pay. That Mr. Beiler was entrusted with the same duties as he had performed under other quartermasters, and the method of handling salvage papers, including those pertaining to the financial part, were not changed, as all papers had been inspected by an officer of the Inspector General's Department, and no irregularities found, either before or during the time this affiant was quartermaster.

That affiant was of the belief that if any graft or leak in the handling of salvage existed, it would be at the salvage warehouse as only one enlisted man and one general prisoner were available for duty there and that the undersigned personally supervised all salvage that had been sold when same was delivered to the successful purchaser.

That the following is a general list of duties performed by your affiant: (a) Administrative; (b) personnel; (c) purchasing and contracting officer; (d) salvage officer; (e) utilities officer until about March of 1928; (f) laundry officer; (g) handling of prison labor assigned to the post quartermaster from disciplinary barracks, and (h) supervising of new construction.

That affiant had not sufficient commissioned personnel to assist him, although request was made at various times for additional personnel; that in view of this personnel shortage, various duties had to be assumed by affiant which required affiant's personal supervision when this time should have been devoted to administrative work, and which had to be entrusted to civilian personnel in the office. That, most of the time during the period of March 17, 1927, to May 6, 1928, it was necessary for the undersigned and his chief clerk, Mr. Groshans, to work at night to keep abreast of the work in the office, which should have been done during office hours.

That all due precautions to the best of affiant's ability were exercised to protect the interests of the Government, not only while serving as quartermaster at Fort Jay and Governors Island, N. Y., but throughout his long period of military service. That affiant calls attention to the last paragraph of the letter of the Honorable Secretary of War, Harry H. Woodring, dated April 20, 1937, and now appearing in Report 1320, Seventy-fifth Congress, first session, on H. R. 5260, being a bill for the relief of Col. William H. Noble.

Further affiant sayeth not.

E. H. TARBUTTON,
Colonel, United States Army, Retired.

Sworn to and subscribed before me this the 20th day of May A. D. 1942.

[SEAL]

HARRY L. HABERKORN, *Notary Public.*

My commission expires June 1, 1943.

STATE OF NEW YORK,
County of New York, ss:

Personally appeared before me, the undersigned authority authorized to administer oaths, Jesse H. Groshans, 323 East Mosholu Parkway, New York City, who, being duly sworn, deposes and states:

That he has been a civilian employee of the War Department since April 27, 1917, and that he was employed in the office of the quartermaster, Fort Jay, N. Y., during the time that Lt. Col. E. H. Tarbutton, retired, was the quartermaster at Fort Jay, N. Y. Colonel Tarbutton, then Major Tarbutton, was on duty as quartermaster between the period March 1927 to May 1928. At that time, there was also employed in the office, a civilian clerk, Mr. Charles G. Bieler, deceased 1931. Mr. Bieler had charge of salvage and fuel accounts, making collections therefor and depositing same. At various periods, Mr. Bieler's accounts

were reviewed and usual inspection by military personnel assigned for that duty was made, and to my knowledge no record of improper procedure was brought to the attention of the quartermaster or myself as a result of any such audits.

The work of the office at that time was voluminous, and on many occasions Colonel Tarbutton and myself were required to work hours beyond those normally assigned to keep abreast of current work. To the best of my observation, Colonel Tarbutton performed his duties as quartermaster in a satisfactory manner, relying upon the personnel which he found upon his assuming duties at Fort Jay to perform their allotted tasks in a satisfactory manner, and exercising the customary supervision thereof. As I recall it, conditions necessitated the greater portion of Colonel Tarbutton's time being spent in the field supervising maintenance and repair projects, and in consultations with his utilities officer.

I personally never witnessed any transactions or incidents which might lead me to believe collusion existed between Colonel Tarbutton and Mr. Bieler.

Further deponent saith not.

JESSE H. GROSHANS.

Sworn to and subscribed before me this 10th day of March 1942.

[SEAL]

LEON JAVITZ,

Notary Public, Bronx County.

Commission expires March 30, 1942.

STATE OF NEW YORK,
County of New York, ss:

Personally appeared before me, the undersigned authority authorized to administer oaths, Louis Javits, who deposes and makes the following statement:

That he is a civilian employee of the War Department and has been on duty in the office of the post quartermaster, Fort Jay, Governors Island, N. Y., since September 24, 1923, in a clerical capacity.

That some time in March 1927, Lt. Col. E. H. Tarbutton reported for duty as quartermaster, Fort Jay, N. Y., and was on active duty in such capacity until some time in May 1928.

That during Lieutenant Colonel Tarbutton's duty as quartermaster, he was under this officer's direct supervision and located in the same office with Lieutenant Colonel Tarbutton and had every opportunity to observe this officer in the performance of his duties as quartermaster.

That to his best knowledge and belief, Lieutenant Colonel Tarbutton did perform his duties in a very able and conscientious manner and to the best of his ability and that Lieutenant Colonel Tarbutton did from time to time question his civilian employee assistants as to how they were progressing in their work, also checking into their methods of accomplishing their work; and that he had every confidence in the civilian assistants in his office that they were performing their duties in accordance with prescribed rules and regulations.

That he was personally acquainted with one Charles G. Bieler, a civilian employee in the office of the quartermaster, Fort Jay, N. Y., who died March 1, 1931, and that it was his belief and the belief of the quartermaster and all fellow employees in the office, that Mr. Bieler was performing his duties in an honest and straightforward manner and fully in accordance with prescribed rules and regulations.

Further deponent saith not.

LOUIS J. AVITS.

Sworn to and subscribed before me, this 10th day of March 1942.

[SEAL]

JESSE H. GROSHANS,

Notary Public, Bronx County, N. Y.

Commission expires March 30, 1943.

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